

Message Text

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TO SECSTATE WASHDC 5101
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S E C R E T SECTION 1 OF 2 SANTIAGO 4629

EO 11652: GDS
TAGS: PINT SHUM CI
SUBJ: U.S. POLICY TOWARD CHILE: CHILEAN INSTITUTIONS AND HUMAN
RIGHTS

REF: (A) STATE 123807; (C) STATE 124513

1. EMBASSY RECOMMENDATIONS: THE DEPUTY SECRETARY NOW HAS
TOLD THE CHILEANS OF OUR INTEREST IN THREE AREAS OF INSTI-
TUTIONAL REFORM (REFS). AS THE NEXT STEP IN THE PROCESS WE
SUGGES THE CHILEANS BE GIVEN THE FOLLOWING SPECIFICS:

-- INTELLIGENCE SERVICE: QUICK, PHASED REMOVAL OF THE
NATIONAL INTELLIGENCE DIRECTORATE'S (DINA'S) POWER OF DETEN-
TION WITHOUT JUDICIAL SUPERVISION, AND ITS IMMUNITY FROM
RESPONSIBILITY TO THE CIVIL JUDICIARY FOR ITS ACTS. NEXT,
ABOLLTION OF THE AGENCY ENTIRELY AND TRANSFER OF DINA'S
INTELLIGENCE FUNCTION TO AGENCIES UNDER SECURE CONTROL.

-- STATE OF EMERGENCY: REDUCTION OF THE GOC'S EMERGENCY
POWERS OVER A PERIOD NOT TO EXEED A SPECIFIC TIME--CERTAINLY
NOT MORE THAN ONE YEAR-- AND WITH THE PROVISIO THAT THE
EXECUTIVE AUTHORITY THEREBY LOST NOT BE REASSUMED UNDER
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REVISED LEGISLATION COVERING "NORMAL" PERIODS.

-- DUE PROCESS: GUARANTEED ACCESS TO CIVIL COURTS
BY PERSONS INVOLVED IN SECURITY OFFENSES. CORRESPONDINGLY,
JUDICIAL POWERS OF INVESTIGATION IN SUCH CASES, AND SUBPOENA
POWERS OVER EXECUTIVE WITNESSES AND DOCUMENTS.

IF THESE FAR-REACHING RECOMMENDATION WERE CARRIED OUT, WE MIGHT EXPECT THAT THE RESULTING INCREASED PERSONAL SECURITY WOULD EVENTUALLY RESULT IN PROGRESS TOWARD A FREE SOCIETY, WHICH WOULD BE THE BEST GUARANTEE OF HUMAN RIGHTS.

2. BACKGROUND: IN HIS CONVERSATIONS MAY 26 AND 27 WITH CHILEAN AMBASSADOR CAUAS AND ALLENDISTA EX-FOREIGN MINISTER ALMEYDA (REFTELS), THE DEPUTY SECRETARY MADE CLEAR THE USG'S INTEREST IN IMPROVEMENTS IN CHILE IN THE AREAS OF DUE PROCESS, THE STATE OF SIEGE, AND ACTIVITIES OF THE INTELLIGENCE SERVICES. CAUAS DANCED AROUND THESE SUBJECT NIMBLY, BUT UNDERSTOOD THE IMPORTANCE OF THE DEPUTY SECRETARY'S MESSAGE--AND, UNDOUBTEDLY, TRANSMITTED IT TO THE GOC ACCURATELY AND WITH APPROPRIATELY FORCEFUL COMMENT.

3. SANTIAGO 4564 DISCUSSED THE US POLICY TOWARD THE EXCRUCIATING PROBLEM OF DISAPPEARANCES IN CHILE-I.E., THE PERMANENT DISPOSAL OF DOMESTIC ENEMIES IN WAYS NEVER DISCLOSED. IN OUR VARIOUS POLICY RECOMMENDATIONS, THE EMBASSY HAS EMPHASIZED THE PRIORITY OF AN END TO GROSS VIOLATIONS OF THE PERSON. SUCH VIOLATIONS CEASED THE FIRST QUARTER OF THIS YEAR. HOWEVER, THE APRIL/ MAY BACKSLIDING FURTHER PERSUADED US THAT LASTING IMPROVEMENTS WILL BE ASSURED ONLY WHEN INSTITUTIONS ARE CREATED OR CHANGED IN WAYS THAT MAKE IT DIFFICULT OR IMPOSSIBLE FOR THE GOC TO CONTINUE THE ARBITRARY ABUSE OF EXECUTIVE POWER.

4. EXISTING PROBLEM AREAS:

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A. DUE PROCESS: DUE PROCESS IS CLOSELY RELATED TO THE STATE OF SIEGE, SINCE THE GOC'S POWERS OF PREVENTIVE DETENTION DERIVE FROM ITS STATE OF EMERGENCY AUTHORITY. ESSENTIALLY, NO ADMINISTRATIVE OR JUDICIAL MECHANISM PROTECTS PEOPLE INVOLVED IN SECURITY MATTERS:

-- DURING EMERGENCIES THE PRESIDENT OF THE REPUBLIC LEGALLY HAS ALMOST UNLIMITED AUTHORITY TO DETAIN PEOPLE INDEFINITELY, WITHOUT CHARGE AND WITHOUT REVIEW.

--DETENTIONS UNDER EMERGENCY AUTHORITY SUPPOSEDLY CARRY CERTAIN SAFEGUARDS: ACTUALLY, SECURITY SERVICES OPERATE ONLY AS CHECKED BY THE PRESIDENT, THE SAFEGUARDS AFTEN DISREGARDED. CIVIL COURTS HAVE REFUSED TO INTERVENE. EXTENDING DUE PROCESS TO THE SECURITY

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AREA BRINGS NO ASSURANCE THAT THE COURTS COULD OR
WOULD PERFORM A SAFEGUARDING FUNCTION ADEQUATELY, BUT
IT AT LEAST WOULD OPEN THAT POSSIBILITY.

B. STATE OF SIEGE: CAUAS WAS DISINGENUOUS IN TELLING
THE DEPUTY SECRETARY THAT THE GOC HAD SAID THE STATE
OF SIEGE "WAS NOT TO BE PERMANENT," AND THAT "IT HAS
TO BE RENEWED EVERY SIX MONTHS" (PARA SEVEN, REF A).
THE GOC HAS EXERCISED PREVENTIVE DETENTION AND OTHER
RESTRICTIVE POWERS SINCE THE SEPTEMBER 1973 COUP, AND
IT SHOWS NO INTENTION OF VOLUNTARILY RELIQUISHING
THIS AUTHORITY. MOREOVER, TWO HOOKERS COULD CIRCUMVENT
REAL REDUCTION OF EXCEPTIONAL AUTHORITY:

--THE GOC HAS ESTABLISHED VARIOUS LEVELS OF
EMERGENCY CONDITIONS, IF THE "STATE OF SIEGE" IS
ABOLISHED IN SEPTEMBER, AS CAUAS HOPES, WE EXPECT IT
TO BE REPLACED BY A "STE OF DEFENSE AGAINST SUB-
VERSION," WHICH WILL STILL GIVE THE PRESIDENT EXTENSIVE
ARBITRARY POWERS AND RESTRICT LIBERTIES.

-- THE GOC IS ALSO TOUGHENING UP SECURITY LEGISLA-
TION FOR "NORMAL" TIMES. FROM THE INFORMATION WE HAVE
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(E.G., SOME 120 NEWSECURITY-TYPE CRIMES), IT ENVISAGES
A QUANTUM INCREASE IN PERMANENT EXECUTIVE AUTHORITY,

PERHAPS INCOMPATIBLE WITH THE EXISTENCE OF A FREE SOCIETY.

C. INTELLIGENCE SERVICES: UNDER THIS RUBRIC WE INCLUDE PRINCIPALLY THE DINA, THE SERVICE MOST DEEPLY INVOLVED IN HUMAN RIGHTS VIOLATIONS. CAUAS OF COURSE STATED A TRUISM WHEN HE REMARKED "THAT EVERY COUNTRY HAS A NEED FOR INTELLIGENCE" (PARA SEVEN REF A). BUT THAT EVADES THE ISSUE:

--DINA HAS A NORMAL INTELLIGENCE FUNCTION, BUT IT ALSO HAS WIDE POLICE POWERS, WHICH IT WIDELY ABUSES. MOREOVER, IT ANSWERS ONLY TO THE PRESIDENT.

--DINA IS NOW SO NOTORIOUS AS THE GOC'S CHIEF INSTRUMENT OF REPRESSION, AND SO TIED BY ITS OPERATIONS AND TRAINING TO ABUSIVE ACTIVITY, THAT ELIMINATION, OR A COMPLETE OVERHAUL, SEEMS THE ONLY REMEDY.

5. REAL, LASTING IMPROVEMENT OF HUMAN RIGHTS REQUIRES GETTING AT THESE PROBLEMS. WE BELIEVE OUR RECOMMENDATIONS IN PARA ONE WOULD RESULT IN SIGNIFICANT ADVANCES IF IMPLEMENTED.

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